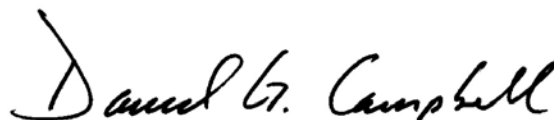


1 The Court also concludes, however, that Plaintiff should recover fees at the hourly
2 rate of \$185.00. Pursuant to 28 U.S.C. § 2412(d)(2)(A)(ii), “attorney fees shall not be
3 awarded in excess of \$125 per hour unless the court determines that an increase in the cost
4 of living or a special factor, such as the limited availability of qualified attorneys for the
5 proceedings involved, justifies a higher fee.” Plaintiff’s request for a rate of \$185 per hour
6 represents an increase of \$60 above the statutory amount, and less when compared to the
7 adjusted base rate, which, taking into account cost of living increases since 1996, is \$153.75
8 for 2004 and \$158.75 for 2005.

9 The Ninth Circuit has held that attorneys practicing in the areas of Social Security law
10 can be reimbursed for amounts exceeding the statutory cap under certain circumstances. *See*
11 *Pirus v. Bowen*, 869 F.2d 536, 541-42 (9th Cir. 1991). “First, the attorney must possess
12 distinctive knowledge and skills developed through a practice specialty. Secondly, those
13 distinctive skills must be needed in the litigation. Lastly, those skills must not be available
14 elsewhere at the statutory rate.” *Love v. Reilly*, 924 F.2d 1492, 1496 (9th Cir. 1991). The
15 Court concludes that Plaintiff’s request for \$185 per hour is appropriate under this standard.
16 Plaintiff’s counsel possesses distinctive knowledge and skill, that knowledge and skill was
17 required in this litigation, and the knowledge and skill cannot be obtained elsewhere at the
18 \$125 statutory rate.

19 **IT IS ORDERED** that Plaintiff’s Application for Award of Attorneys’ Fees under the
20 Equal Access to Justice Act (Doc. #26) is **granted**. Plaintiff is awarded \$915.75 in
21 attorneys’ fees (\$185 x 4.95 hours) and \$150.00 in costs.

22 DATED this 26th day of July, 2006.

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David G. Campbell
27 United States District Judge
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